



PATENT
Customer No. 22,852
Attorney Docket No. 09812.0645-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Takashi KAWAKAMI et al.) Group Art Unit: 2621
Application No.: 09/817,504) Examiner: Nguyen, Huy Tranh
Filed: March 26, 2001) Confirmation No.: 7923
For: EDITING APPARATUS AND)
EDITING METHOD)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action dated June 29, 2006 and the Advisory Action dated August 30, 2006. This Request is being filed concurrently with a Notice of Appeal and a petition for a one-month extension of time.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of rejections set forth in an Office Action. The application has been at least twice rejected. Applicants have filed a Notice of Appeal with this Request, and have not yet filed an Appeal Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See

Official Gazette Notice, July 12, 2005. Therefore, Applicants request review of the Examiner's rejections in the Final Office Action for the following reasons.

II. Status of the Claims

In the Final Office Action, the Examiner rejected claims 1, 2, 16, and 18 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,930,446 to Kanda ("*Kanda*") in view of U.S. Patent No. 6,064,793 to Furuyama ("*Furuyama*"); objected to claims 3-8 as being dependent upon a rejected base claim; and allowed claims 9-15 and 17.

III. The rejection of claims 1, 2, 16, and 18 under 35 U.S.C. § 103(a) as being unpatentable over *Kanda* in view of *Furuyama* is improper

Applicants respectfully traverse the rejection of claims 1, 2, 16, and 18 under 35 U.S.C. § 103(a). The prior art cited by the Examiner, *Kanda* in view of *Furuyama*, does not teach or suggest each and every element of claims 1, 2, 16, and 18. A *prima facie* case of obviousness has, therefore, not been established.

Claim 1 recites an editing apparatus including, for example:

designation means for designating an editing position of the coded data;

evaluation means for evaluating a playback state according to a playback standby time required to start playback after an instruction to play back the coded data from the editing position designated by said designation means;

(emphasis added). The Examiner states that the first video processor 11, in *Kanda*, corresponds to the claimed evaluation means (Final Office Action at page 3). Applicants respectfully disagree.

Kanda discloses an edition system comprising a main recording and reproducing apparatus comprising input/output means and recording and reproducing means (col. 1,

lines 15-41). In *Kanda*, first video processor 11 receives and converts a first composite video signal inputted to the computer and temporarily buffers the converted composite video signal (col. 3, lines 56-59). "The processor controller 11a outputs a control signal for data conversion and a control signal to extract a time code from the composite video signal V2 which has been inputted, to the data converting unit 11b" (col. 3, line 66 - col. 4, line 2). The processor controller 11a also outputs a control signal to control a read/write timing and a read/write address of the frame memory 11c (col. 4, lines 2-5).

Kanda discloses conversion of a component video signal to a digital video signal, extraction of time code data from the digital video signal, and storage of a video data digital-converted signal in frame memory 11c (col. 4, lines 9-33). However, *Kanda* does not teach an evaluation means for evaluating a playback state. Video signal conversion, extraction, and storage does not teach evaluation. Therefore, *Kanda* does not teach an "evaluation means for evaluating a playback state according to a playback standby time required to start playback after an instruction to play back the coded data from the editing position designated by said designation means," as recited in claim 1.

The Examiner states that *Kanda* "fails to teach that the evaluation means outputs, as the evaluation result, a playback standby time (waiting time) required to start playback outputting after an instruction to play back and output the coded data from the editing position is issued" (Final Office Action at page 3). The Examiner relies on column 10 of *Furuyama* for allegedly teaching this limitation. The Examiner states, "[t]he blinking display as taught by Furuyama is considered as an evaluation of a playback state according to an [sic] playback standby since it indicates a playback standby time required from receiving an editing instruction to playing back the data on a

tape at an edition position (cut in point)" (Final Office Action at page 4). Applicants respectfully disagree.

This passage of *Furuyama* discloses a point on the magnetic tape that is "a point preceding the cut-in timing by a length of time necessary before the travel of the tape is stabilized to give an adequate state of reproduction [and] is displayed in a blinking manner in such a manner as -:--:--" (col. 10, lines 1-7). A count value "nSec" indicates the cut-in timing point on the tape, and a flow of the operation in a state of waiting for settling action on the count value of a cut-out point is indicated by "a blinking display of -:--:--" (col. 10, lines 24-30 and Fig. 6B).

The blinking display, in *Furuyama*, shows that the flow of operation is in a state of waiting (col. 11, lines 26-27). It displays "an adequate state of reproduction" (col. 10, line 6). The Examiner correctly notes that the blinking display indicates a playback standby time. However, such an indication does not teach an evaluation. One of ordinary skill would recognize that the blinking display, in *Furuyama*, acts solely as an indication means, and there is no evaluation means. Therefore, *Furuyama* does not teach an "evaluation means for evaluating a playback state according to a playback standby time required to start playback after an instruction to play back the coded data from the editing position designated by said designation means," as recited in claim 1.

Accordingly, *Kanda* and *Furuyama* fail to establish a *prima facie* case of obviousness with respect to claim 1, at least because the references fail to teach each and every element of the claim. Claim 2 depends from claim 1 and is thus also allowable for at least the same reasons as claim 1. Applicants request the board of examiners to withdraw these rejections.

Independent claims 16 and 18, though of different scope from claim 1, recite limitations similar to those set forth above with respect to claim 1. Claims 16 and 18 are therefore allowable for at least the reasons presented above. Applicants request the board of examiners to withdraw these rejections.

IV. Conclusion

In view of the foregoing, claims 1-18 are in condition for allowance. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: October 23, 2006

By: 

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